

Provision of district council funds for community involvement projects

A. Introduction

The Audit Commission ("Audit") conducted a review on the provision of funds to District Councils for implementing community involvement projects in districts annually ("DC-CIP funds") by the Home Affairs Department ("HAD").

2. Hon Abraham SHEK Lai-him declared that he was a member of the Business and Professionals Alliance for Hong Kong with some members being District Council ("DC") members. Hon Paul TSE Wai-chun declared that he was a DC member. Hon Steven HO Chun-yin declared that he was a member of the Central Committee of the Democratic Alliance for the Betterment and Progress of Hong Kong and many district organizations had invited him as a consultant or an honorary president. Hon LAM Cheuk-ting declared that he was a member of the Democratic Party with a number of its members being DC members and he himself was a member of North DC, and DC members belonging to the Democratic Party might have applied for and organized activities using the DC-CIP funds. Hon SHIU Ka-fai declared that he was a DC member and a member of the Liberal Party. Hon Tanya CHAN declared that she was a member of the Civic Party and DC members belonging to the Civic Party might have applied for and organized activities using the DC-CIP funds.

Background

3. Community involvement projects ("CI projects") are aimed at enhancing community spirit and social cohesion and promoting well-being of the people in the 18 districts of Hong Kong. CI projects, such as district festivals and activities to promote sports and culture, are funded by the DC-CIP funds provided by HAD and implemented through DCs. In 2015-2016, the provision of the DC-CIP funds amounted to \$361.6 million. The number of CI projects implemented in 2015 was 37 827, which had a total of 18.6 million participants. According to the 2017 Policy Address announced in January 2017, the annual provision would be increased by \$100 million from 2017-2018 onwards.

The Committee's Report

4. The Committee's Report sets out the evidence gathered from witnesses. The Report is divided into the following parts:

- Introduction (Part A) (paragraphs 1 to 7);

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- Allocation and use of district council funds for community involvement projects (Part B) (paragraphs 8 to 23);
- Management of conflicts of interest in community involvement projects (Part C) (paragraphs 24 to 39);
- Implementation of community involvement projects (Part D) (paragraphs 40 to 49); and
- Conclusions and recommendations (Part E) (paragraphs 50 to 52).

Public hearing

5. The Committee wrote to Director of Leisure and Cultural Services and Director of Home Affairs respectively on 18 May 2017 to seek further information in respect of the irregularities revealed in the Director of Audit's Report ("Audit Report"). The Committee received replies from Director of Leisure and Cultural Services and Director of Home Affairs on 31 May and 6 June 2017 (*Appendices 24* and *25* respectively). After studying the information received, the Committee decided to hold a public hearing on 17 October 2017 to seek further clarification from the relevant bureau/departments.

Speech by Director of Audit

6. **Mr David SUN Tak-kei, Director of Audit**, gave a brief account of the subject at the beginning of the Committee's public hearing held on 17 October 2017. The full text of his speech is in *Appendix 26*.

Opening statement by Secretary for Home Affairs

7. **Mr LAU Kong-wah, Secretary for Home Affairs**, made an opening statement at the beginning of the Committee's public hearing held on 17 October 2017, the summary of which is as follows:

- HAD had consulted the Independent Commission Against Corruption on preparing guidelines on "other declarable interests" under the first-tier declaration of interests. As for the second-tier declaration of interests, HAD had asked each DC secretariat to remind DC members and committee members to declare interests as appropriate and remind

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DC/committee chairmen to make rulings on interests declared and record these rulings in the meeting minutes;

- HAD had worked with each DC secretariat with a view to drawing up a set of good practices on the handling of interests declared and rulings made by DC chairmen and committee chairmen at meetings; and
- HAD would stipulate that the relevant provisions of declaration of interests in the DC standing orders would also be applicable to working groups.

The full text of Secretary for Home Affairs's opening statement is in *Appendix 27*.

B. Allocation and use of district council funds for community involvement projects

8. The Committee enquired if the Administration had briefed DC members at the start of a new term on, amongst others, the purposes of the DC-CIP funds, the scopes of CI projects and procedures on declaration of interests.

9. **Miss Janice TSE Siu-wa, Director of Home Affairs**, said at the public hearing on 17 October 2017 and supplemented in her letter of 7 November 2017 (*Appendix 28*) that HAD organized induction briefings for DC members at the start of a new DC term. For the 2016-2019 DC term, two identical induction briefings were held on 8 and 12 January 2016 respectively. In the briefings, HAD introduced different manuals and guidelines related to the work of DCs, such as the Manual on the Use of DC Funds ("HAD Manual") and the Guidelines on the Remuneration Package for Members of DCs of the Hong Kong Special Administrative Region. In addition, the briefings covered the functions of the Home Affairs Bureau and HAD, and the Code of Conduct for DC members. Presentation by the Independent Commission Against Corruption on the conduct of DC members as public officers was also included in these two briefings. HAD also briefed DC members on, amongst others, the purposes of DC funds and the scope of CI projects.

10. According to paragraph 2.2(b) of the Audit Report, a portion of the DC-CIP funds was allocated to individual DCs taking into account a number of factors (e.g. population and socio-economic factors). However, HAD had not taken into account changes in the factors in allocating the DC-CIP funds (paragraph 2.5 of the Audit Report). As Director of Home Affairs agreed to conduct a review of the allocation of the DC-CIP funds in response to the Audit Report, the Committee

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enquired about the progress of the review and enhancements that would be made to the allocation mechanism.

11. **Director of Home Affairs** replied in her letter of 6 June 2017 (Appendix 25) and at the public hearing on 17 October 2017 and supplemented by her letter of 7 November 2017 (Appendix 28) that to maintain a reasonable degree of certainty and continuity in funding, a baseline allocation was calculated and maintained for each district unless there was an increase in overall funding for DC funds. When there was an increase¹ in the total provision of DC funds, the allocation for DCs in the past year would be allocated as baseline allocation. As for the additional provision, a portion of which would be allocated on an equal basis to the DCs and the remaining portion would be allocated according to the relevant factors (e.g. population and land area) by using the latest data. HAD had duly reviewed and adopted a new allocation arrangement. Starting from 2017-2018, the major portion (60.3%) of the total provision would be allocated according to the latest data of the relevant factors (e.g. population and socio-economic factors). HAD planned to adopt this arrangement to recalculate the allocation at the beginning of a new DC term, or when there was a further increase in the total provision in future. This would ensure any changes to the relevant factors could be duly and timely reflected in the allocation.

12. According to paragraph 2.9 of the Audit Report, for the period 2011 to 2015, the number of CI projects decreased by 3.3% (from 39 127 to 37 827), and the number of participants decreased by 13.3% (from 21.49 million to 18.63 million). However, the expenditure of CI projects increased by 17% (from \$272.35 million to \$319.52 million) (paragraph 2.10 of the Audit Report) in the same period. The Committee enquired about the reasons for the increase in the expenditure of CI projects despite the decrease in the number of participants.

13. **Director of Home Affairs** replied in her letter of 6 June 2017 (Appendix 25) and at the public hearing on 17 October 2017 that as DCs might identify and initiate projects for implementation to meet the needs of their districts, the number of projects and participants might vary from year to year. The Administration had not set any targets for DCs on the number of CI projects to be carried out or the number of participants of these projects. She explained that the implementation of CI projects involved the procurement of goods and services as well as the engagement of project staff. The increase in price level and staff cost

¹ Between 2008-2009 and 2016-2017, there were three increases in overall funding for DC funds respectively in 2012-2013, 2013-2014 and 2015-2016.

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over the years would have a bearing on the number and nature of projects organized/sponsored. As an illustration, the Composite Consumer Price Index increased by 16.8% for the period 2011 to 2015. Both DCs and other implementation parties had been striving to enhance the quality and variety of CI projects and higher operational costs for implementing CI projects had been observed. HAD had compared the latest figures for 2016 against those set out in the Audit Report up to 2015 and found that the expenditure per participant was comparable (\$17.2 in 2015 versus \$17.8 in 2016). HAD would continue to keep under review the number of CI projects and participants in the projects vis-à-vis the expenditure of the projects. In case there were any abnormal trends, follow-up action would be taken.

14. According to paragraph 2.9 of the Audit Report, the number of CI projects (comprising DC projects and projects of the Leisure and Cultural Services Department ("LCSD")) and the number of participants in CI projects were the two key performance indicators shown in HAD's Controlling Officer's Report. In March 2017, HAD and LCSD were verifying the accuracy of the statistics on the number of CI projects and the number of participants in CI projects (paragraph 2.14 of the Audit Report). The Committee enquired about the reasons for the verification process and the progress, and whether the figures of previous years would be updated.

15. **Ms Michelle LI Mei-sheung, Director of Leisure and Cultural Services**, said at the public hearing on 17 October 2017 and stated in her letter of 31 May 2017 (Appendix 24) and **Director of Home Affairs** stated in her letters of 6 June and 7 November 2017 (Appendices 25 and 28 respectively) that in light of the Audit's analysis of the project figures, both HAD and LCSD had verified the figures again and found that some discrepancies had arisen due to different categorization and timeframe of the statistics. HAD and LCSD had agreed to adopt measures to ensure the uniformity and accuracy of the project statistics. Specifically, a template would be made available for district staff to ensure that the figures were provided on the same basis among the 18 districts. The relevant figures would be verified by the LCSD Headquarters and compiled by the HAD Headquarters using a coordinated mechanism and consistent approach. The relevant statistics in the past years were revised on the basis of the new approach as follows:

| | 2011 | 2012 | 2013 | 2014 | 2015 |
|-------------------------------|-------------|-------------|-------------|-------------|-------------|
| No. of CI projects | 33 593 | 34 010 | 34 522 | 34 534 | 33 712 |
| No. of participants (million) | 16.88 | 17.12 | 18.06 | 17.13 | 15.92 |

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16. In paragraphs 2.17 and 2.18 of the Audit Report, Audit's analysis revealed that in 2015-2016, of the \$205.63 million of funds spent on the 15 project categories, \$146.27 million (71%) were spent on the three categories of arts and cultural activities, recreational and sports activities, and festival celebrations and district festivals. The funds spent on some project categories were small. In addition, Audit found that for some projects targeting specific groups of people, the number of projects and participants was low (paragraph 2.20 of the Audit Report). The Committee enquired whether the Administration would consider providing incentives or implementing measures to encourage DCs to initiate projects of other categories and targeting specific groups of people.

17. **Director of Home Affairs** replied at the public hearing on 17 October 2017 and stated in her letter of 6 June 2017 (Appendix 25) that as DC members were conversant with the needs of their respective districts/constituencies, they were in a better position to initiate projects that met the needs of their districts. Starting from 2017-2018, HAD would provide DCs with an analysis of the approved projects by categories for DCs' reference. DCs could make reference to the analysis in considering allocation of DC funds to the various project categories.

18. According to paragraphs 2.24 and 4.15 of the Audit Report, Audit noted cases where inaccurate and incomplete information had been input by district offices into the District Council Funds Information System ("DCFIS"). The evaluation results as contained in the project evaluation forms had not been input into DCFIS by the DC secretariats concerned. The Committee asked about the procedure in place for the DC secretariats to process information in DCFIS and the verification process to ensure the accuracy of data input.

19. **Director of Home Affairs** replied in her letter of 6 June 2017 (Appendix 25) that the DC secretariats input project data into DCFIS upon the approval of CI projects and after key milestones had been reached, e.g. approval for releasing advance payment, receipt of final reports and evaluation forms, etc. User procedures manual and guidelines on the classification of CI projects had been provided to assist the secretariat staff in inputting data into the system. The DC Secretary was responsible for ensuring the accurate recording of DC projects in DCFIS. HAD had reminded the DC secretariats to keep the data in DCFIS accurate, updated and complete.

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20. According to paragraph 2.27 of the Audit Report, 10 of the 18 DCs had used funds designated for arts and cultural activities ("the designated funds") on other activities in 2015-2016, involving amounts ranging from \$0.22 million to \$1.09 million. The Committee enquired:

- whether HAD had ascertained the reasons why part of the designated funds were used on other activities and details of these other activities, and whether HAD had monitored the use of the designated funds;
- if the DCs concerned had not fully used up the approved designated funds, how the residual funds would be handled; and
- what measures would be taken to ensure that the designated funds were solely used for arts and cultural activities and the implementation timetable.

21. **Director of Home Affairs** explained at the public hearing on 17 October 2017 and in her letter of 6 June 2017 and supplemented in her letter of 7 November 2017 (Appendices 25 and 28 respectively) that:

- since the provision of designated funds for the first time in 2013-2014, HAD had required DCs to ensure that they would spend in each of the following years an amount no less than the amount spent by them on arts and cultural activities in 2012-2013 and that the two additional designated funds (i.e. \$20.8 million since 2013-2014 and another \$20.8 million from 2015-2016 to 2019-2020) would be spent solely on such activities;
- there would be cases where the actual expenditure incurred by these activities was different from the approved budget, such as the actual amount was less than the approved budget, some projects were cancelled due to inclement weather or other unforeseen circumstances, and payment rolled over to the next financial year, pending submission of supporting documents;
- all unspent DC funds, including those designated for arts and cultural activities, would lapse at the end of the financial year. In order to fully utilize the district allocation for the benefit of the community, DCs might decide to use the unspent balance of the designated funds to settle payments for approved CI projects in other categories. As a budgetary strategy, DCs might approve over-commitments of up to

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25% of their respective district allocations and any unspent balance of DC funds could be used for settling payment of CI projects in general. It was not feasible to specify which particular projects had used up the said unspent balance in the designated funds;

- HAD regularly reminded District Officers ("DOs") that the designated funds should be fully spent on arts and cultural activities. HAD had included this specific reminder when notifying DOs of the annual district allocation at the start of the financial year. It had also encouraged the DC secretariats from time to time to speed up payments to ensure full utilization of the designated funds. To ensure DCs could fully use the designated funds, HAD had asked the DC secretariats to enhance budgetary control and management of the funds, e.g. by suitably considering over-committing on arts and culture projects, so that the funds could be spent as far as possible by the close of the financial year; and
- examples of approved CI projects under other categories which had art and culture elements were "2015年拉闊音樂賀中秋敬老綜藝音樂嘉年華" (categorized under "Festival celebrations and district festivals") and "勁歌熱舞同樂日 2015 Live Band Show" (categorized under "Recreational and sports activities").

22. In reply to the Committee's concern whether the DC secretariats had reminded DC chairmen and members of the relevant committees which approved these other activities that funds designated for arts and cultural activities would be used, **Director of Home Affairs** replied in her letter of 7 November 2017 (Appendix 28) that the unspent balance was seen by DCs as part and parcel of the funds for settling payment of approved CI projects in general, no reminders would be issued on the use of the unspent balance.

23. In reply to the Committee's enquiry on the classification of CI projects, **Director of Home Affairs** said at the public hearing on 17 October 2017 that the classification of CI projects was decided by staff of each DC secretariat when they input the relevant information into the computer system. In her letter of 7 November 2017 (Appendix 28), she supplemented that there were 23 categories on the list of CI projects. For the purpose of conducting analyses, the Audit had discounted some items (e.g. the employment of dedicated staff to assist DC in implementing CI projects) or counted items of similar nature collectively (e.g. "District Cultural Project Grant Scheme" and "Culture and Arts" were grouped

together). As for the item of "Others", the projects concerned were re-distributed to other related categories. As a result, a total of 15 project categories were reported in the Audit Report. Guidelines for classifying CI projects into different categories had been circulated to the DC secretariats and were attached to the letter.

C. Management of conflicts of interest in community involvement projects

24. The Committee noted that under the District Councils Ordinance (Cap. 547) ("DCO"), a DC may make standing orders for regulating its procedures and those of its committees, including procedures for managing conflicts of interest in CI projects. DCs had generally adopted the model text provided by HAD, with variations to suit their individual needs. In Part 3 of the Audit Report, it is revealed that some practices of DCs had deviated from DCO, such as allowing working groups to endorse CI project applications without seeking their DCs' further endorsement, and some DCs did not require their members to declare interests when handling matters through circulation of papers. The Committee asked the Administration whether HAD had reviewed the standing orders, procedures and forms used by each DC to make declaration of interests to ensure that they were appropriate and in compliance with the provisions of DCO.

25. **Director of Home Affairs** replied in her letter of 6 June 2017 (Appendix 25) and explained at the public hearing on 17 October 2017 and supplemented in her letter of 7 November 2017 (Appendix 28) that:

- section 68 of DCO provided that a DC might make standing orders for regulating its procedures and those of its committees. In promulgating the model text provided by HAD for DCs' reference, HAD normally would highlight in bold the part of the model text adopted from the provisions of DCO and mark in italics those parts of text which the Administration considered necessary for inclusion in the DC standing orders;
- HAD had already requested DOs to review the standing orders of their respective DC to ensure that the principles and procedures laid out therein complied with the provisions of DCO as well as the model text of standing orders. HAD noted that ten DCs had adopted procedures on declaration of interest same as those of the model text and the other eight DCs had made only minor modifications to the model text; and

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- HAD had also specifically impressed upon the DC secretariats of the need to seek DCs or their committees' endorsement of CI project applications recommended by working groups.

The relevant extracts of the model text of DC standing orders and the HAD Manual relating to declaration of interests were provided in Director of Home Affairs's letter of 12 July 2017 (*Appendix 29*). A table summarizing the reasons for differences between the standing orders of eight DCs² and the model text of DC standing orders is in *Appendix 30*.

26. According to paragraph 3.8(a) of the Audit Report, Audit noted that 34 DC/committee members might have overlooked the need to declare connections with implementation parties when attending meetings to consider the earmarking of funding. The Committee enquired about measures that had been taken so far to ensure that DC/committee members declared their interests before earmarking funding for implementation parties.

27. **Director of Home Affairs** explained in her letter of 6 June 2017 (*Appendix 25*) that earmarking of funding was for budgetary and planning purposes only. Despite that funding had been earmarked, all funding applications from implementation parties were subject to DCs' vetting, scrutiny and separate approval. HAD had already requested DOs to remind DC/committee members to declare interests before earmarking of funding and the rulings made should be recorded in the minutes of meetings.

28. The Committee noted from paragraphs 3.9(a) and 3.10 of the Audit Report that Director of Home Affairs had agreed to provide guidelines with broad principles of what constituted "other declarable interests" to DC/committee members as appropriate to facilitate the reporting of such interests and enquired about the progress.

29. **Director of Home Affairs** replied in her letter of 6 June 2017 (*Appendix 25*) that HAD had consulted the Independent Commission Against Corruption for its advice on preparation of the guidelines. HAD aimed to provide broad principles of what constituted "other declarable interests" and along the line

² Eight DCs which have made some minor modifications for their standing orders based on the model text are Eastern, Wong Tai Sin, Kwai Tsing, Sai Kung, Sha Tin, Tai Po, Tsuen Wan and Yuen Long DC.

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that key decision-making or influential positions in implementation parties held by DC/committee members should be considered as "other declarable interests" under the guidelines. **Director of Home Affairs** further said at the public hearing on 17 October 2017 and supplemented in her letter of 7 November 2017 (Appendix 28) that HAD had issued guidelines on "other declarable interests" in September 2017. As at early November 2017, the guidelines had been adopted by eight DCs. As for the other ten DCs, the DCs concerned were in the process of considering the guidelines; for example, by submitting them to DC/relevant committee for discussion and consideration. A copy of the guidelines is in Appendix 28.

30. The Committee noted from paragraph 3.13 of the Audit Report that, of the 129 cases of declaration of interests examined by Audit, in 73 (57%) cases, rulings had not been made and recorded on the interests declared, and the DC/committee members who had declared the interests continued their attendance in the meetings. The Committee enquired about the guidelines and procedures in place for DC Chairmen to make rulings on those members' attendance, withdrawal, making a speech and voting at the meetings. The Committee also enquired about the reasons why rulings had not been made and recorded on the interests as contrary to the standing orders requirement.

31. **Director of Home Affairs** replied in her letter of 6 June 2017 (Appendix 25) and at the public hearing on 17 October 2017 and supplemented by her letter of 7 November 2017 (Appendix 28) that:

- the DC standing orders provided that any DC member who had pecuniary or other interests in any matter under consideration by the DC concerned or had connections with the beneficiaries or potential beneficiaries, including those on tender, quotation and DC funds had to, as soon as practicable after being aware of it, declare such to the DC concerned prior to the discussion of the relevant item. Based on the interests declared, the DC/committee chairman should decide whether the member might speak or vote on that matter, or should withdraw from the meeting;
- the HAD Manual also provided that DC members (including co-opted members) should make a declaration on any conflicts of interest which might be actual, potential or perceived. DC members should refrain from having business dealings with any party associated with projects financed by DC funds, which might bring DC into disrepute. If such

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could not be avoided, the DC member should declare the transaction and withdraw from the relevant DC proceedings;

- HAD had drawn up a set of good practices on the arrangement for handling declaration of interests by DC members and co-opted members in vetting fund applications. As at early November 2017, eight DCs had adopted the good practices in their standing orders or procedures. The other ten DCs would go through the necessary consultation process before adopting the good practices. A copy of the good practices is in Appendix 28;
- although for some cases, rulings were not explicitly recorded in the minutes concerned, it had been the general understanding and practice that members with pecuniary interests in the funding applications would not vote on the specific funding application(s) in question. The DC secretariats concerned had already stepped up the arrangement by reminding the chairmen of meetings to make explicit rulings and ensure that such rulings were properly recorded in the minutes of meetings; and
- HAD had already requested all DC secretariats that as a standard practice they should remind DC/committee members to declare interests at the relevant meetings or upon circulation of papers, and record the rulings made by the chairmen in the minutes of meetings. The minutes of meetings were posted on DC websites for public scrutiny.

32. With reference to Case 1 in paragraph 3.5 and Case 2 in paragraph 3.13 of the Audit Report, the Committee enquired whether the DC secretariats concerned in these two cases had reminded the chairmen of the meetings to make specific rulings on the interests declared by members.

33. **Director of Home Affairs** advised in her letter of 7 November 2017 (Appendix 28) that for both Cases 1 and 2, the chairmen of the meetings concerned had not been reminded to make specific rulings on the interests declared by members. For Case 1, the secretariat concerned explained that it was an established practice in the DC concerned that members should not speak or vote on the items on which they had declared conflict of interest. For Case 2, the secretariat concerned explained that no explicit ruling was made in respect of members' declarations before September 2016 because all along, there was an implied consent from the chairman

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and general acquiescence among members that where no direct conflict of interest was involved, those who declared interests could continue to stay at the meeting. HAD acknowledged that there was room for improvement and the secretariats concerned had already stepped up the arrangement by reminding chairmen of meetings to make specific rulings and ensure that such rulings were recorded in the minutes of meetings. A copy of correspondence from HAD to DOs on reminding the chairmen of meetings to make rulings on interests declared and record the rulings in the minutes of meetings was attached in the letter.

34. According to paragraphs 3.18 and 3.19 of the Audit Report, of the nine DCs examined by Audit, there were three working groups (under three DCs) that endorsed applications for CI projects on behalf of DCs/committees. The procedures for managing conflicts of interest as stipulated in DC standing orders were not applicable to working group meetings, and there were no laid-down procedures for handling conflicts of interest in working groups. The Committee asked whether the Administration had implemented measures to rectify the above situation.

35. **Director of Home Affairs** stated in her letter of 6 June 2017 (Appendix 25) and further explained at the public hearing on 17 October 2017 that the principle of requiring DC members to declare interests as appropriate applied to Council, committee, and working group meetings. Whilst working group was not explicitly mentioned in the standing orders in addition to the reference to "Council" and "committee", the HAD Manual had provided that DC members and co-opted members should make a declaration of interests before the relevant item was discussed. As working group members were either DC members or co-opted members, this would have governed the declarations of interests by members of working groups when handling CI projects. HAD had already reminded the DC secretariats that the stipulated procedures for handling conflicts of interest in DC/committee meetings also applied to working group meetings and would add the express reference to "working group" in the DC standing orders to put the matter beyond doubt.

36. According to paragraph 3.18 of the Audit Report, the minutes of working group meetings as reviewed by Audit had not disclosed essential information, such as members in attendance, interests declared and rulings on interests declared. The Committee asked the Administration to explain about these irregularities and measures to ensure that this would not happen in future.

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37. **Director of Home Affairs** replied at the public hearing on 17 October 2017 and supplemented in her letter of 7 November 2017 (Appendix 28) that:

- except closed-door meetings, minutes of working group meetings were made available on the DC website. While the recordings of working group meetings were not required to be uploaded onto the DC website, the recordings were available upon public request;
- the secretariat of the working group concerned explained that the meeting minutes were prepared in accordance with Clause 43 of the Standing Order of the DC. Clause 43 followed the model text provided by HAD as follows: "[t]he minutes of meetings of a working group shall record the final decisions of the discussion only. They shall be uploaded to the homepage of the Council except for the closed-door sessions of meeting";
- this was a case of misinterpretation of Order 43 of the model text, which was intended to provide guidance that there was no need to record discussions of the working group in verbatim and that only the final decisions were required to be recorded. The intention was to streamline the work as there might be many working group meetings looking after many minute details of some projects. It was not the intention to allow the secretariat to leave out other essential details such as the attendance list and interests declared; and
- starting from 2017, the minutes of the working group concerned had incorporated more details of the meetings, including the list of members in attendance, interests declared and rulings on interests declared.

38. In reviewing the minutes of meetings of three working groups, Audit noted that the working groups had been delegated by their respective DCs with the authority to endorse a project application not exceeding \$24,500, \$100,000 and \$200,000 respectively (paragraph 3.20). However, a DC might only delegate its functions to a committee under DCO. The Committee sought the Administration's explanation on this irregularity and the remedial actions taken.

39. **Director of Home Affairs** replied in her letter of 6 June 2017 (Appendix 25) and further explained at the public hearing on 17 October 2017 and supplemented in her letter of 7 November 2017 (Appendix 28) that working groups

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might make recommendations on CI project applications to DC or its committees for approval but working groups (not within the meaning of committee under section 71 of DCO) should not approve applications on their own. In June 2017, HAD reminded the DC secretariats that, for those working groups that were then endorsing CI project applications, they should (i) seek DC or the relevant committee's further endorsement on the working group recommendations; or (ii) properly constitute the working groups as committees under section 71 of DCO as appropriate. The relevant correspondence issued is in Appendix 28.

D. Implementation of community involvement projects

40. According to paragraph 4.6 of the Audit Report, one DC had reviewed the arrangement of designated non-governmental organizations ("NGOs") more than 10 years ago. The Committee enquired about the existing procedures for reviewing DCs' lists of designated NGOs and the reasons for the DC not reviewing its list of designated NGOs on a regular basis as well as the actions taken by HAD to assist DCs to review the lists.

41. **Director of Home Affairs** explained in her letter of 6 June 2017 (Appendix 25) and at the public hearing on 17 October 2017 that:

- designated NGOs were generally well-established local or district-based organizations with long-term working partnership with DCs/district offices. They had the proven capability and good track record in organizing various CI activities, including large scale or theme-specific ones, for the local community and the people who lived, worked or studied in the districts. DCs would, for budget planning purposes, earmark a suitable portion of the DC funds for these NGOs at the beginning of the year;
- proposals for earmarking of funding for the designated NGOs would still need to be submitted to the respective DC/committees for consideration, and the individual funding applications would be subject to the usual application, vetting and disbursement procedures as set out in the HAD Manual. Applications from the designated NGOs were subject to the same level of scrutiny by the respective DCs/committees as with those submitted by other organizations; and
- HAD agreed that DCs should regularly review their lists of designated NGOs to ensure that only NGOs with good performance and track

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records were included in the list. HAD would provide DCs with guidelines for this purpose within 2017 to facilitate the review.

42. According to paragraph 4.8 of the Audit Report, it was a usual practice that partner NGOs were selected with the assistance of the DC secretariats through open or restricted invitations. In paragraph 4.9 and Case 3, of the four DCs examined by Audit, for one DC, partner NGOs were selected through nominations by the DC members in charge of the CI projects concerned. The Committee enquired about the reasons for this irregular practice in adopting a less open and transparent practice in selecting partner NGOs.

43. **Director of Home Affairs** replied in her letter of 6 June 2017 (Appendix 25) and explained at the public hearing on 17 October 2017 that:

- in line with the role of DCs, HAD had not stipulated the exact mechanism on the selection of NGO partners but had provided guidelines on public accountability and management of conflicts of interest in the HAD Manual. HAD was then gathering comments from the 18 DCs on their practices in selecting partner NGOs with a view to drawing up a set of best practices with emphasis on openness, transparency and accountability for reference by all DCs;
- as DCs needed some flexibility in undertaking CI projects to meet the diverse needs of their districts, it would not be practical to turn the best practices or guidelines into mandatory requirements for strict compliance by DCs. In processing and considering applications, including the selection of partner NGOs, DCs were advised to follow the guidelines set out in the HAD Manual;
- for the DC mentioned in paragraph 4.9 of the Audit Report, while there was a practice of assigning a DC member to be the "member in charge" of certain CI projects (e.g. where appropriate, suggesting an NGO to be an organizer/co-organizer), all decisions regarding the appointment of NGO(s) were made by the relevant committees/working groups rather than the individual DC members. The role of the "member in charge" was to make recommendations for committees/working groups' consideration and approval. In selecting a partner NGO, the committees/working groups would take into account such factors as the experience and track record of the NGO, and record their deliberations/considerations in the minutes. All committee/working

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group meetings were open to public and their minutes were available on the DC website; and

- HAD and the DO concerned would explore with the DC possible enhancements to the mechanism for selecting NGOs taking into account the practice adopted by other DCs.

44. According to paragraphs 4.13 and 4.14 of the Audit Report, one DC examined by Audit had discontinued the use of any evaluation systems in the period 2011-2012 to 2016-2017 and another had not set any criteria for selecting CI projects for evaluation. The Committee noted that according to the HAD Manual, a DC should have an evaluation system in place to monitor the effectiveness of CI projects and enquired about:

- whether having an evaluation system was a mandatory requirement in the HAD Manual and the reasons for some DCs not having an evaluation system in place;
- the percentage of forms with the evaluators' comments for the three DCs concerned that adopted the system in 2015-2016; and
- measures taken by HAD to ensure that DCs set up a system for evaluating CI projects and set proper criteria for selecting CI projects for evaluation.

45. **Director of Home Affairs** replied at the public hearing on 17 October 2017 and in her letters of 6 June and 7 November 2017 (Appendices 25 and 28 respectively) that:

- the HAD Manual provided that an evaluation system should be put in place by all DCs to monitor the effectiveness of CI projects. For the DC mentioned in paragraph 4.13 of the Audit report, project completion reports were obtained from organizers and considered by the DC secretariat concerned. In November 2016, the DC concerned decided on an evaluation system and that DC members should be involved in the evaluation work to ensure the effectiveness of CI projects. Proper records of DC members' involvement in the evaluation system had been made since this financial year;

Provision of district council funds for community involvement projects

- DCs were given the flexibility to devise their own evaluation system but generally it was expected that DC members, co-opted members or district office staff who were not involved in the administration of the project concerned and who did not have an interest in the applicant organization and/or the project under evaluation should conduct visits or attend the activities on a random basis;
- HAD had already reminded DOs that a proper evaluation system should be put in place to monitor the effectiveness of CI projects and all projects meeting the criteria set should be evaluated. The DC concerned was reviewing the evaluation system with reference to other districts' good practices. HAD would monitor the progress of the review and offer assistance whenever required; and
- all the 3 DCs mentioned in paragraphs 4.13 to 4.17 concerned had used a standard evaluation form, which was basically the same as the one provided in the HAD Manual (a copy of the form is in Appendix 28). Part B of the standard evaluation form allowed the evaluators to put down their comments (i.e. item (g) "Other Comments") and around 2.7% of these forms were with evaluators' comments.

46. The Committee noted from paragraph 4.16 of the Audit Report that for five projects, while the actual number of participants was below 50% of the expected number of participants, the rating was "Very Satisfactory". In one project of one DC, while the actual number of participants was only 33% of the expected number, the rating was "Very Satisfactory". In two projects of another DC, while the actual number of participants was 100% of the expected number in one project and 123% in the other, the rating was only "Acceptable". The Committee enquired whether guidelines would be laid down to facilitate a common understanding of the evaluation system to reflect the actual situation in completing the review.

47. **Director of Home Affairs** explained in her letter of 6 June 2017 (Appendix 25) that there were different types and scale of CI projects. While evaluators (usually DC members without a direct interest in the project) could count the number of participants for events of a smaller scale (e.g. with a small number of participants), they might have difficulties in counting the same for large scale events such as carnivals. As there would be practical difficulties in devising guidelines that could ensure accuracy in evaluators' counting of the number of participants in certain types of events (e.g. carnival type events), HAD would remind the DC secretariats to follow up with the evaluators in cases the ratings given were not in

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line with the actual outturn rates, say, by obtaining the evaluator's explanation or observations regarding the discrepancy.

48. According to paragraph 4.18 of the Audit Report, Audit examined 38 projects held in 2015-2016 at LCSD venues and found that in 30 (79%) projects, the audience size disclosed in the final report was higher than that recorded by LCSD venue management (with variances ranging from 3% to 323% and averaging 71%). The Committee asked about the methods used by LCSD and DCs and what follow-up actions had been taken to address the problem.

49. **Director of Leisure and Cultural Services** replied in her letter of 31 May 2017 (Appendix 24) and **Director of Home Affairs** replied in her letter of 6 June 2017 (Appendix 25) that the records kept by LCSD venue management were based on ticket sales report or ticket stubs collected or manual counting during admission. HAD indicated that figures set out in the final reports submitted to DCs were provided by the implementing parties. HAD had asked district offices to request the implementing parties to obtain the relevant figures from the LCSD venue management in completing the final reports so as to ensure the accuracy of the number of participants/audience in the final reports.

E. Conclusions and recommendations

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| Overall comments |
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50. The Committee:

- notes that the aims of the community involvement projects ("CI projects") are to enhance community spirit and social cohesion and promote well-being of the people in the 18 districts. The annual provision of the funds to District Councils for implementing CI projects in districts ("DC-CIP funds") was \$361.6 million for the five years 2015-2016 to 2019-2020. According to the 2017 Policy Address announced in January 2017, the annual provision would be increased by \$100 million from 2017-2018 onwards. The number of CI projects implemented under the DC-CIP funds in 2015 was 37 827, which had a total of 18.6 million participants;

Provision of district council funds for community involvement projects

- expresses grave concern about the inconsistencies and variations across different District Councils ("DCs") in managing CI projects and that those practices are not conducive to enhancing accountability and transparency in the use of the DC-CIP funds and are not in compliance with the practices of good governance as evidenced by the following:
 - (a) the practice of reviewing the list of designated non-governmental organizations ("NGOs")³ varied. Of the four DCs examined by the Audit Commission ("Audit"), one DC last reviewed its list more than 10 years ago;
 - (b) despite that the Home Affairs Department ("HAD") Manual on the use of the DC-CIP funds has stipulated that a DC should have an evaluation system in place to monitor the effectiveness of CI projects, of the four DCs examined by Audit, one DC had discontinued the use of any evaluation systems in the six-year period 2011-2012 to 2016-2017 and another DC did not set any criteria for selecting CI projects for evaluation;
 - (c) of the nine DCs examined by Audit, three working groups (under three DCs) had been delegated by their DCs with the authority to endorse a CI project application not exceeding \$24,500, \$100,000 and \$200,000 respectively. However, those DCs have no statutory power to make such delegation arrangements, for section 71(5) of the District Councils Ordinance (Cap. 547) ("DCO") only provides that DC may delegate its functions to a committee; and
 - (d) of the four DCs examined by Audit, one DC selected partner NGOs for implementing CI projects through nominations by the DC members in charge of the projects concerned instead of following the usual practice of selection through open or restricted invitations by the DC secretariat;
- understands that under section 68 of DCO, a DC may make standing orders for regulating its procedure and that of its committees; and each DC should be given some degree of flexibility to make its standing orders as well as work procedures to suit the characteristics and circumstances of individual DCs. However, it is imperative that DCs

³ Designated NGOs are those which have a long-term working relationship with DCs and are earmarked with funds by DCs in their annual budgets for carrying out CI projects.

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should ensure transparency and accountability in their consideration and approval of CI projects, which involve public money;

- strongly urges HAD to:
 - (a) take necessary actions to ensure that the standing orders of each DC comply with the provisions of DCO;
 - (b) take more effective measures to ensure that the work procedures of DCs/committees/working groups comply with the principles of transparency and accountability in considering and approving CI projects; and
 - (c) remind DCs to ensure that the delegation of functions to working groups would not be in contravention of DCO;

Allocation and use of district council funds for community involvement projects

- notes that since the provision of designated funds for the first time in 2013-2014, HAD had required DCs to ensure that they spent in each year an amount no less than the amount spent by them on arts and cultural activities in 2012-2013, and that the two additional designated funds (i.e. \$20.8 million since 2013-2014 and another \$20.8 million from 2015-2016 to 2019-2020) would be spent solely on such activities;
- expresses serious concern that in 2015-2016, 10 DCs had spent funds designated for arts and cultural activities on other activities, ranging from \$0.22 million to \$1.09 million and totaling \$6.8 million;
- expresses concern that while there were 15 project categories to classify CI projects, HAD had not prepared detailed guidelines for the DC secretariats to ensure consistency in the classification for all DCs. Given the nature of each project category and that there may be overlaps in scopes of different categories, each DC secretariat may adopt different criteria in its classification and the statistics compiled may not accurately reflect the scope or nature of CI projects implemented;

Provision of district council funds for community involvement projects

- urges HAD to:
 - (a) liaise with and remind DCs that funds designated for arts and cultural activities should not be diverted to spend on other non-arts and cultural activities; and
 - (b) prepare, in consultation with DCs, detailed guidelines to assist the DC secretariats in classification of CI projects;

Management of conflicts of interest in community involvement projects

- notes that DC standing orders provide that any DC member who has pecuniary or other interests in any matter under consideration by the DC concerned or has connections with the beneficiaries or potential beneficiaries must, as soon as practicable after being aware of it, declare such interest(s) to the DC concerned prior to the discussion of the relevant item. Based on the interests declared, DC/committee chairman shall decide whether the member may speak or vote in that matter, or should withdraw from the meeting;
- expresses great dissatisfaction and finds it unacceptable about the irregularities and deficiencies in respect of declaration of interests of DC/committee/working group members as evidenced by the following:
 - (a) "other declarable interests" had not been clearly defined in DC standing orders. Of the 129 second-tier declarations of interests examined by Audit, which were made by DC/committee members at meetings held by seven DCs or their committees in 2016, in 122 (95%) declarations (made by 76 members), registrable interests regarding the positions (e.g. president or chairperson) held by members in implementation parties had not been reported in the first-tier declaration;
 - (b) Audit's examination of the minutes of eight meetings (involving eight DCs) in 2016 revealed that in seven meetings (involving seven DCs) where DC/committee members considered the earmarking of funding for implementation parties, 34 members had not declared their connections with the implementation parties (e.g. as vice-chairmen or board members of the implementation parties);

Provision of district council funds for community involvement projects

- (c) rulings⁴ had not been made and recorded on the interests declared in 73 cases of the 129 cases of declarations of interests at meetings, contrary to the standing orders requirement. In the circumstances, those who had declared interests continued their attendance in the meetings;
 - (d) in relation to working groups under the nine DCs examined by Audit, in one of the three working groups (under three DCs) that endorsed applications for CI projects on behalf of DCs/committees, the minutes of meetings disclosed only the final decisions of project applications. Other information, such as members in attendance, interests declared and rulings on interests declared, had not been disclosed;
 - (e) the procedures for managing conflicts of interest as well as the need to publicize minutes of DC/committee meetings (containing information on declaration of interests) for public viewing were not applicable to working group meetings. There were no laid-down procedures for handling conflicts of interest in working groups; and
 - (f) the standing orders of nine DCs examined by Audit did not spell out how declarations of interests were to be made when matters were handled not in meetings but through circulation of papers, and for two of the nine DCs, applications for CI projects were frequently endorsed by DC/committee members through circulation of papers;
- notes that Director of Home Affairs has agreed with Audit's recommendations in paragraphs 3.9, 3.14 and 3.21 of the Director of Audit's Report ("Audit Report");
 - notes that HAD issued guidelines on "other declarable interests" in September 2017;

⁴ Standing orders of each DC stipulate similar procedures for handling interests declared as follows: (a) when a member of DC or a committee declares an interest in a matter, the chairperson of the DC or the committee shall decide whether the member: (i) may speak or vote on the matter; (ii) may remain in the meeting as an observer; or (iii) should withdraw from the meeting; and (b) all cases of declaration of interests shall be recorded in the minutes of the DC/committee meetings.

Provision of district council funds for community involvement projects

- urges HAD to:
 - (a) keep in view the implementation of the guidelines on what constitutes "other declarable interests" which should be declared in the first-tier declaration;
 - (b) make more efforts to remind DC members to declare their interests where appropriate;
 - (c) remind DCs and the DC secretariats that chairpersons' rulings on interests declared by members of DCs/committees/working groups at meetings should be made and the rulings as well as their rationale should be recorded in the minutes; and
 - (d) consider extending procedures for managing conflicts of interest to working group meetings as well as handling matters through circulation of papers;

Role of the District Council secretariat

- expresses grave concern about the role of the DC secretariats in assisting DCs in ensuring that the consideration, approval and evaluation of CI projects as well as the management of conflicts of interest comply with the principle of accountability and transparency and the principle of good governance; and
- urges HAD to consider preparing guidelines for the DC secretariats on how the DC secretariats could play a more active role in enhancing accountability, transparency and good governance in considering, approving and evaluating CI projects.

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| Specific comments |
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51. The Committee:

Allocation and use of district council funds for community involvement projects

- expresses serious concern that:

Provision of district council funds for community involvement projects

- (a) HAD had not taken into account changes in the factors (e.g. population and socio-economic factors) in allocating the DC-CIP funds. For example, in allocating an amount of \$256.11 million in 2015-2016, the allocation was based on the old data (e.g. district population) of 2008-2009, 2012-2013 and 2013-2014;
- (b) in the period 2011 to 2015, the number of CI projects decreased by 3.3% from 39 127 to 37 827 and the number of participants decreased by 13.3% from 21.49 million to 18.63 million, while the expenditure of projects increased by 17% from \$272.35 million to \$319.52 million;
- (c) HAD and the Leisure and Cultural Services Department ("LCSD") were yet to verify the accuracy of the CI project statistics (i.e. the number of CI projects and the number of participants in CI projects) when the statistics had already been published in the HAD's Controlling Officer's Reports;
- (d) according to the HAD's Controlling Officer's Report, CI projects aim to achieve a wide spectrum of social objectives. However, of the \$205.63 million of the DC-CIP funds spent in 2015-2016 on the 15 categories of DC projects, \$146.27 million (71%) were spent on the three categories of arts and cultural activities, recreational and sports activities, and festival celebrations and district festivals, while only \$59.36 million (29%) were spent on the other 12 categories. The funds spent on some of those 12 categories were small. For example, each of the categories of civic education (\$2.42 million) and building management (\$1.7 million) incurred a spending of less than 2% of the \$205.63 million spent;
- (e) for some DC projects targeting specific groups of people, the number of projects and participants was low. For example, of the some 6 900 DC projects in total, there were only 133 (1.9%) projects for people with disabilities or special needs, and of the some 15 million participants, there were only 19 000 (0.1%) ethnic minorities. There is room for DCs to increase the number of projects targeting specific groups of people; and
- (f) while the computer system set up for managing the DC-CIP funds and CI projects contained useful data on the funds and projects,

Provision of district council funds for community involvement projects

HAD had not made use of the data to conduct analyses periodically to facilitate the management of the funds and projects;

- notes that:
 - (a) Director of Home Affairs has agreed with Audit's recommendations in paragraphs 2.6, 2.28 and 2.29 of the Audit Report;
 - (b) HAD has adopted a new allocation arrangement starting from 2017-2018 that less than half of the total provision would be allocated based on individual DC's allocation in the past year, and the major portion of the total provision would be allocated according to the latest data of the relevant factors, such as population and socio-economic factors; and
 - (c) Director of Leisure and Cultural Services has agreed with Audit's recommendations in paragraph 2.29 of the Audit Report;

Implementation of community involvement projects

- expresses serious concern that:
 - (a) as part of evaluation of CI projects, in rating an assessment item known as "No. of participants as compared with the estimated no. of participants", there were cases where the ratings given were not reflecting the actual situation. For example, in one DC project, the rating was "Very Satisfactory", while the actual number of participants was only 33% of the expected number; and
 - (b) Audit examination of 38 CI projects held in 2015-2016 at performance venues of LCSD revealed that in 30 (79%) projects, the audience size reported by the implementation party was higher than that recorded by LCSD venue management, with variances ranging from 3% to 323% and averaging 71%; and
- notes that Director of Home Affairs has agreed with Audit's recommendations in paragraphs 4.10 and 4.20 of the Audit Report.

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| <p>Follow-up action</p> |
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52. The Committee wishes to be kept informed of the progress made in implementing the various recommendations made by the Committee and Audit.